

REMARKS/ARGUMENTS

Claim 1 has been amended to include the limitations of claim 4, and its intervening claim 3. Claims 3 and 4 have been cancelled herein. Accordingly, no new matter is involved. Claims 5 and 7 have been rewritten so as to be in independent form. Accordingly, no new matter is involved. Claim 8 has been amended to include the limitations of claim 9, and claim 9 has been cancelled herein. Accordingly, no new matter is involved. Claims 17 and 33 have been rewritten so as to be in independent form. Accordingly, no new matter is involved. Claim 33 has also been amended to state that the hydraulic fluid is withdrawn to contract the cavity. Support for this change can be found throughout the specification. Accordingly, no new matter is involved. Claim 50 has been amended to include the limitations of claim 58, and claim 58 has been cancelled herein. Accordingly, no new matter is involved. Claim 50 has also been amended to state that the hydraulic fluid is withdrawn to contract the cavity. Support for this change can be found throughout the specification. Accordingly, no new matter is involved. Claims 59-62, which previously depended from claim 58, have been amended to depend from claim 50. Accordingly, no new matter is involved. Claims 71-98 have been cancelled herein in order to expedite prosecution of the case. Such claims will be pursued in a continuation application. Accordingly, no new matter is involved. Claims 30, 56 and 68 have been amended to correct various minor grammatical errors pointed out by the Examiner. Accordingly, no new matter is involved. Claims 2, 6 and 67 have been cancelled herein in order to expedite prosecution of the case. Accordingly, no new matter is involved.

In the previous Office action, the Examiner stated:

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 USC 120 as follows:

This application is claiming the benefit of a prior filed nonprovisional application under 35 U.S.C. 120. Copendency between the current application and the prior application is required. Applicant's have claimed priority to 09/373,224, which as abandoned on October 6, 2000. There is no copendency since the current application was filed on January 4, 2001.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration is compliance with 37 CFR 1.67(a) identifying the application by application number and filing date is required. See MPEP § 602.01 and 602.02.

The oath or declaration is defective because Applicant has made an improper domestic priority claim.

Specification

The disclosure is objected to because of the following informalities: the domestic priority claim in the first sentence of the specification should be removed. Appropriate correction is required.

As seen from the attached decision to grant petition, U.S. Patent Application Serial No. 09/373,224 was revived for purposes of continuity of this case. Accordingly, Applicant respectfully requests that the Examiner withdraw the objections to the specification and oath/declaration.

In the previous office action the Examiner rejected claims 30, 56 and 68 are rejected to because of informalities. Specifically, the Examiner stated:

- In line 1 of claims 30 and 56, "is" should be deleted;
- One of the two periods in claim 68 should be deleted;

As noted above, Claims 30, 56 and 68 have been amended to correct these informalities. Therefore, Applicants respectfully requests that the Examiner withdraw the objections to claims 30, 56 and 58.

In the previous office action the Examiner rejected claim 33 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner stated:

It is unclear what action is performed on the hydraulic fluid to contract the cavity.
See "and hydraulic fluid ... "in lines 5 and 6 of claims 33 and 58.


As noted above, Claim 33 has been amended to state that the hydraulic fluid is withdrawn from the cavity to contract the cavity. Therefore, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. 112 rejection to claim 33.

Claims 4, 5, 7, 9, 17, 33 and 58 have been amended and or rewritten as independent claims 1, 5, 7, 8, 17, 33 and 50. Other than the claim rejected above, original claims 4, 5, 7, 9, 17, 33 and 58 (now claims 1, 5, 7, 8, 17, 33 and 50) were also rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over one or more claims in one or more of the following patents/applications: 6,475,136; 6,450,946; 6,450,173; copending Application No. 10/253,608; 6,454,699; 6,454,700; 6,461,293; 6,463,935.

Enclosed herewith is a terminal disclaimer, disclaiming any portion of any term of a patent granted on this application beyond the first to expire of the above noted patents and application. Accordingly, Applicant respectfully requests that the Examiner withdraw the obviousness-type double patenting rejection to Applicants pending claims.

In conclusion, Applicants submit that all pending independent claims (1, 5, 7, 8, 17, 33 and 50) as amended herein are now fully allowable over the prior art cited by the Examiner. In addition, because all other pending claims depend, either directly or indirectly, from one of these claims, they are also allowable over the prior art cited by the Examiner. Therefore, Applicant respectfully requests that the Examiner reexamine and favorably reconsider all of Applicant's pending claims in the form of a Notice of Allowance.

Respectfully submitted,

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Date: April 23, 2004